

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No. 5,540,938

Application No. 08/328,165

Issued: July 30, 1996

Filing Date: October 24, 1994

Patentee: Joseph G. Masterson et al.

Attorney Docket No. 12952-033-999

For: FORMULATIONS AND THEIR USE IN THE  
TREATMENT OF NEUROLOGICAL DISEASES

**REQUEST FOR EXPEDITED CERTIFICATE OF CORRECTION**  
**UNDER 37 C.F.R. § 1.322**

**ATTN: Certificate of Correction Branch**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to Manual of Patent Examining Procedure § 1480.01 (8th ed., rev. 8, 2010) [hereinafter MPEP], Patentee respectfully requests expedited issuance of a Certificate of Correction in connection with the above-identified patent, to correct an error attributable solely to the Office. Enclosed please find the error, as it appears in the patent, in the attached form PTO/SB/44, as follows:

On the face page of the patent, after the Related U.S. Application Data section (item [62]), a new section should be added, as follows:

--[30] **Foreign Application Priority Data**

Nov. 2, 1990 [IE] Ireland ..... 3952/90--

The error is attributable solely to the Office. In accordance with MPEP § 1480.01, Patentee provides herewith evidence that unequivocally shows that the error is attributable solely to the Office, and that the matter is clearly disclosed in the records of the Office.


Specifically, Patentee provides herewith copies of the following documents, available in the file wrapper of the subject patent: (a) Transmittal of Filing Under 37 CFR 1.60(b) dated October 21, 1994, which was a request for filing application no. 08/328,165 ("the '165 Application"), which issued as the instant patent [attached hereto as Exhibit A]; (b) the Priority Claim section in the copy of the Combined Declaration and Power of Attorney for application no. 07/786,400 ("the '400 Application") that was submitted with the '165 Application on October 21, 1994 [attached hereto as Exhibit B]; and (c) Cover Page of the Office Action dated January 20, 1995 for the '165 Application [attached hereto as Exhibit C]. These documents show that the foreign priority claim, which was erroneously omitted by the Office from the face page of the printed patent, was made early in the prosecution of the '165 Application, which issued as the instant patent, and was recognized by the Office.

Specifically, Exhibit A (at page 4) and Exhibit B both demonstrate that the foreign priority claim (identifying the foreign application by country, application number, and filing date) was made upon the filing of the '165 Application that issued as the subject patent, pursuant to 35 U.S.C. § 119(b)(1) and 37 C.F.R. § 1.55(a)(1). Furthermore, Exhibit C, specifically at box 12, demonstrates that the Examiner acknowledged the claim to foreign priority under 35 U.S.C. § 119, and acknowledged that a certified copy of the foreign application was received in the '400 Application (the "grandparent" application, of which parent application no. 08/073,651 is a file wrapper continuation under 37 C.F.R. § 1.62). Thus, Patentee's claim to foreign priority was perfected during the pendency of the application that became the subject patent. The foreign priority data, however, does not appear on the face of the subject patent.

Accordingly, Patentee respectfully requests expedited issuance of the attached Certificate of Correction to correct this error, which error is attributable solely to the Office. Patentee believes that no fee is due with this request. Should any fees be required, however, the Commissioner is authorized to charge any required fees to Jones Day Deposit Account No. **50-3013**.

Respectfully submitted,

Date: April 11, 2012

 32,605  
Adriane M. Antler Reg. No.  
**JONES DAY**  
222 East 41st Street  
New York, New York 10017  
(212) 326-3939

# EXHIBIT A

Attorney's Docket No. \_\_\_\_\_

93.1806C.US

PATENT

328165



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Anticipated Classification of this application:

Class 424 Subclass \_\_\_\_\_

Prior application:

Examiner: C. Azpuru

Art Unit: 1502

Box Patent Application  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

TRANSMITTAL OF FILING UNDER 37 CFR 1.60(b)

**WARNING:** A c-i-p (continuation-in-part) cannot be filed under 37 CFR 1.60.

**WARNING:** Filing under 37 CFR 1.60 is permitted only if filed by the same or less than all the inventors named in the prior application. 37 CFR 1.60(b)(3).

**WARNING:** The filing of an application at the United States stage of an International Application requires an oath or declaration. 37 CFR 1.61(a)(4).

**WARNING:** The claims of this new application may be finally rejected in the first Office action where all claims of the new application are drawn to the same invention claimed in the earlier application and would have been properly finally rejected on the grounds or art of record in the next Office action if they had been entered in the earlier application. MPEP § 706.07(b).

This is a request for filing a

☐ Continuation

☒ Divisional

application under 37 CFR 1.60, of pending prior application

Serial No. 0 8/ 073,651 filed on June 7, 1993  
(Date)

of Joseph Gerard Masterson and Michael Myers  
(Inventor(s))

for "Formulations and their use in the treatment of  
(Title of invention)  
neurological diseases"

CERTIFICATION UNDER 37 CFR 1.10

I hereby certify that this 37 CFR 1.60 request and the documents referred to as attached therein are being deposited with the United States Postal Service on this date October 21, 1994 in an envelope as "Express Mail Post Office to Addressee" service under 37 CFR 1.10, Mailing Label Number EF988211032IIS addressed to the: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Donna L. Jackson

(type or print name of person mailing paper)

Donna L. Jackson  
(Signature of person mailing paper)

NOTE: Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. (37 CFR 1.10(b)).

**WARNING:** Certificate of mailing (first class) or facsimile transmission procedures of 37 CFR 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

(37 CFR 1.60(b) [4-3]—page 1 of 8)

NOTE: 37 CFR 1.60 permits the omission of a declaration only if the prior application was complete as set forth in 37 CFR 1.51(a), namely, the prior application comprised at least (1) a specification, including a claim or claims; (2) a declaration; (3) drawings when necessary; and (4) the prescribed filing fee. Accordingly, as presently worded, 37 CFR 1.60 does not permit this procedure to be used where the prior application is pending but only the processing and retention fee required by 37 CFR 1.21(f) is paid or where the declaration was not filed.

## 1. Copy of Prior Application as Filed Which is Attached

NOTE: Under 37 CFR 1.60, practice signing and execution of the application by the applicant may be omitted provided the copy is supplied by and accompanied by a statement by the applicant or his or her attorney or agent that the application papers comprise a true copy of the prior application as filed and that no amendments referred to in the declaration filed to complete the prior application introduced new matter therein.

NOTE: This statement need not be verified if made by an attorney registered to practice before the PTO. (37 CFR 1.60(b)).

- ☒ I hereby verify that the attached papers are a true copy of what is shown in my records to be the above identified prior application, including the oath or declaration originally filed (37 CFR 1.60).

The copy of the papers of prior application as filed which are attached are as follows:

- ☒ 39 page(s) of specification  
☒ 12 page(s) of claims  
☒ 1 page(s) of abstract  
☒ 1 sheet(s) of drawing

(also complete part 6 below if drawings are to be transferred)

- ☒ 4 pages of declaration and power of attorney

(If the copy of the declaration being filed does not show applicant's signature, because the attorney's records do not contain a copy of the signed declaration actually filed for the application, indicate thereon that it was signed and complete the following:)

- ☐ in accordance with the indication required by 37 CFR 60(b), my records reflect that the original signed declaration showing applicant's signature was filed on \_\_\_\_\_

- ☒ the amendment referred to in the declaration filed to complete the prior application and I hereby state, in accordance with the requirements of 37 CFR 1.60(b), that this amendment did not introduce new matter therein.

## 2. Amendments

**WARNING:** "The claim of a new application may be finally rejected in the first Office action in those situations where (1) the new application is a continuing application of, or a substitute for, an earlier application, and (2) all the claims of the new application (a) are drawn to the same invention claimed in the earlier application, and (b) would have been properly finally rejected on the grounds or art of record in the next Office action if they had been entered in the earlier application." MPEP § 706.07(b).

- ☒ Cancel in this application original claims 1-37 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

- ☒ A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

NOTE: Only amendments reducing the number of claims or adding a reference to the prior application (Rule 1.78(a)) will be entered before calculating the filing fee and granting the filing date. 37 CFR 1.60(b).

NOTE: "When filing under Rule 1.60 retain at least one original claim from the patent application to assure a complete application." Notice of March 3, 1986 (1064 O.G. 37-38).

### 3. Petition for Suspension of Prosecution for the Time Necessary to File an Amendment

NOTE: Where it is possible that the claims on file will give rise to a first action final for this continuation application and for some reason an amendment cannot be filed promptly (e.g., experimental data is being gathered) it may be desirable to file a petition for suspension of prosecution for the time necessary).

(check the next item, if applicable)

- ☐ There is provided herewith a Petition To Suspend Prosecution For The Time Necessary to File An Amendment (New Application Filed Concurrently).

### 4. Information Disclosure Statement

(check this item, if applicable)

- ☐ An information disclosure statement is submitted herewith.

### 5. Fee Calculation (37 CFR 1.16)

CLAIMS AS FILED				
Number filed	Number Extra	Rate	Basic Fee 37 CFR 1.16(a)	
			<del>\$710.00</del>	730.00
Total Claims (37 CFR 1.16(c))	8 - 20 =	×	\$ 22.00	-0-
Independent Claims (37 CFR 1.16(b))	1 - 3 =	×	\$ <del>76.00</del>	-0-
Multiple dependent claim(s), if any (37 CFR 1.16(d))	0	+	\$230.00	-0-

- ☐ Fee for extra claims is not being paid at this time. (37 CFR 1.16(d))

NOTE: If the fees for extra claims are not paid on filing they must be paid or the claims cancelled by amendment, prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency. 37 CFR 1.16(d).

Filing Fee Calculation \$ 730.00

### 6. Small Entity Status

- ☐ A verified statement that this filing is by a small entity:
- ☐ is attached
  - ☐ has been filed in the parent application and such status is still proper and desired (37 CFR 1.28(a))

Filing Fee Calculation (50% of above) \$ \_\_\_\_\_

NOTE: Any excess of the full fee paid will be refunded if a verified statement is filed within 2 months of the date of timely payment of a full fee then the excess fee paid will be refunded on request. 37 CFR 1.28(a).

NOTE: 37 CFR 1.28(a), last sentence states: "Applications filed under § 1.60 or § 1.62 of this part must include a reference to a verified statement in a parent application if status as a small entity is still proper and desired."

## 7. Drawings

☒ Drawings are enclosed

☐ formal

☒ informal

**WARNING:** DO NOT submit original drawings. A high quality copy of drawings should be supplied when filing a patent application. The drawings that are submitted to the Office must be on strong, white, smooth, and non-shiny paper and meet the standards of § 1.84. If corrections to the drawings are necessary, they should be made to the original drawings and a high-quality copy of the corrected original drawing then submitted to the Office. Only one copy is required or desired. Comments on proposed new 37 CFR 1.84. Notice of March 9, 1988 (1090 O.G. 57-62).

NOTE: "Identifying indicia, if provided, should include the application number or the title of the invention, inventor's name, docket number (if any), and the name and telephone number of a person to call if the Office is unable to match the drawings to the proper application. This information should be placed on the back of each sheet of drawing a minimum distance of 1.5 cm. (5/8 inch) down from the top of the page." 37 C.F.R. 1.84(c)).

## 8. Priority—35 U.S.C. 119

☒ Priority of application Serial No. 0 xxx/ 3952/90 filed on November 2, 1990 in Ireland is claimed under 35 U.S.C. 119. (country)

☒ The certified copy has been filed in prior U.S. application Serial No. 0 7/ 786,400 on 11/1/91

☐ The certified copy will follow.

## 9. Relate Back—35 U.S.C. 120

☒ Amend the specification by inserting before the first line the sentence:

"This is a

☐ continuation

☒ divisional

of copending application(s)

☒ Serial number 0 7/ 786,400 filed

on 11/1/91, ~~abandoned~~, and Serial No. 08/073,651 filed 6/7/93 <sup>now U.S. Pa</sup> <sup>5,370,8</sup>

☐ International Application \_\_\_\_\_ filed on \_\_\_\_\_ and which designated the U.S."

NOTE: The proper reference to a prior filed PCT application which entered the U.S. national phase is the U.S. serial number and the filing date of the PCT application which designated the U.S.

## 10. Inventorship Statement

NOTE: If the continuation or divisional application is filed by less than all the inventors named in the prior application a statement must accompany the application when filed requesting deletion of the names of the person or persons who are not inventors of the invention being claimed in the continuation or divisional application. 37 CFR 1.60(b) [emphasis added].

(complete appropriate items (a) and (b))

- (a) With respect to the prior copending U.S. application from which this application claims benefit under 35 USC 120 the inventor(s) in this application is (are):

(complete applicable item below)

- ☒ the same  
☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted:

(type name(s) of inventor(s) to be deleted)

- (b) The inventorship for all the claims in this application are

- ☒ the same  
☐ not the same, and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

11. Assignment

- ☒ The prior application is assigned of record to  
Elan Corporation, plc

- ☐ An assignment of the invention to \_\_\_\_\_  
is attached. A separate ☐ "COVER SHEET FOR ASSIGNMENT (DOCUMENT) ACCOMPANYING NEW PATENT APPLICATION" or ☐ FORM PTO 1595 is also attached.

NOTE: "If an assignment is submitted with a new application, send two separate letters - one for the application and one for the assignment." Notice of May 4, 1990 (1114 O.G. 77-78).

NOTE: When an assignee files a . . . divisional application (under . . . 1.60 . . .) reference may be made to a statement filed under 37 CFR 3.73(b) in the parent application, or a copy of that statement may be filed. Notice of April 30, 1993, 1150 O.G. 62-64.

12. Fee Payment Being Made At This Time

- ☐ Not Enclosed  
☐ No filing fee is submitted. (This and the surcharge required by 37 CFR 1.16(e) can be paid subsequently).
- ☒ Enclosed
- |   |           |
|---|-----------|
| <input checked="" type="checkbox"/> basic filing fee  | \$ 730.00 |
| <input type="checkbox"/> recording assignment<br>(\$40.00; 37 CFR 1.21(h)) (See attached "COVER SHEET FOR ASSIGNMENT ACCOMPANYING NEW PATENT APPLICATION".) |           |
| <input type="checkbox"/> processing and retention fee<br>(\$130.00; 37 CFR 1.53(d) and 1.21(f))   | \$ _____  |

NOTE: 37 CFR 1.21(f) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 CFR 1.53(d) and this, as well as the changes to 37 CFR 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the

basic filing fee must be paid or else the processing and retention fee of § 1.21(f) must be paid within 1 year from notification under § 53(d).

Total fees enclosed \$ 730.00

13. Method of Payment of Fees

- ☒ Enclosed is a check in the amount of \$ 730.00
- ☐ Charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_  
A duplicate of this request is attached.

NOTE: Fees should be itemized in such a manner that is clear for which purpose the fees are paid. 37 CFR 1.22(b).

14. Authorization To Charge Additional Fees

**WARNING:** If no fees are being paid on filing do not complete this item.

**WARNING:** Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges if extra claim charges are authorized.

- ☒ The Commissioner is hereby authorized to charge the following additional fees which may be required by this paper and during the entire pendency of the application to Account No. 05-0670
- ☒ 37 CFR 1.16 (a), (f) or (g) (filing fees)
- ☐ 37 CFR 1.16 (b), (c) and (d) (presentation of extra claims)

NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 CFR 1.16(d)) it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

- ☒ 37 CFR 1.17 (application processing fees)

**WARNING:** While 37 CFR 1.17(a), (b), (c) and (d) deal with extensions of time under § 1.136(a) this authorization should be made only with the knowledge that: "Submission of the appropriate extension fee under 37 CFR 1.136(a) is to no avail unless a request or petition for extension is filed." [emphasis added]. Notice of November 5, 1985 (1060 O.G. 27).

- ☐ 37 CFR 1.18 (issue fee at or before mailing Notice of Allowance, pursuant to 37 CFR 1.311(b)).

NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 CFR 1.311(b)).

NOTE: 37 CFR 1.28(b) requires "Notification of any change in status resulting in loss of entitlement to small entity status must be filed in the application . . . prior to paying or at the time of paying . . . issue fee." From the wording of 37 CFR 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

15. Power of Attorney

- ☒ The power of attorney in the prior application is to  
Marla J. Church, Esq.

29,908

(Attorney)

(Reg. No.)

- a. ☒ The power appears in the original papers in the prior application.
- b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
- c. ☐ A new power has been executed and is attached.
- d. ☒ Address all future communications to Marla J. Church, Esq., Elan Pharmaceutical Research Corp., 1300 Gould Dr., Gainesville, GA 30602 (37 CFR 1.60(b) [4-3]—page 6 of 8)

(item d may only be completed by applicant, or attorney or agent of record)

16. Maintenance of Copendency of Prior Application

(This item must be completed and the papers filed in the prior application if the period set in the prior application has run.)

- ☒ The issue fee has been paid  
~~A petition, fee and response has been filed~~ to extend the term in the pending prior application until issuance.

NOTE: The PTO finds it useful if a copy of the petition filed in the prior application extending the term for response is filed with the papers constituting the filing of the Continuation Application. Notice of November 5, 1985 (1060 O.G. 27).

- ☐ A copy of the petition for extension of time in the prior application is attached.

17. Conditional Petition for Extension of Time in Prior Application

(complete this item and file conditional petition in the prior application if previous item not applicable)

- ☐ A conditional petition for extension of time is being filed in the pending parent application.

NOTE: The PTO finds it useful if a copy of the petition filed in the prior application extending the term for response is filed with the paper constituting the filing of the continuation application. Notice of November 5, 1985 (1060 O.G. 27).

- ☐ A copy of the conditional petition for extension of time in the prior application is attached.

18. Abandonment of Prior Application (if applicable)

**WARNING:** (Do not complete this item if the application being filed is a divisional of the prior application which is not being abandoned)

NOTE: "A registered attorney or agent acting under the provisions of § 1.34(a), or of record, may also expressly abandon a prior application as of the filing date granted to a continuing application when filing such a continuing application." 37 CFR 1.138.

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application copending with said prior application.

19. Notification in Parent Application of the Filing of This Continuation Application

- ☐ A notification of the filing of this continuation is being filed in the parent application from which this application claims priority under 35 USC § 120.

20. Statement by Assignee (if applicable)

- ☐ In accordance with 37 CFR 3.73, I have reviewed the evidentiary documents establishing my/our ownership of the application identified herein, and certify that to the best of my/our knowledge and belief, title is with me/us who seek to take action.

- ☐ Assignment submitted herewith for recordal

I hereby declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the

like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Marla J. Church

(type or print name of person signing declaration)

October 21, 1994

Date

ELAN PHARMACEUTICAL RESEARCH CORP.

(P.O. Address of Signatory)

1300 Gould Drive

Gainesville, GA 30504

- ☐ Inventor  
☐ Assignee of complete interest  
☐ Person authorized to sign on behalf of assignee  
☒ Attorney or agent of record  
☐ Filed under Rule 34(a)

Tel. No. : ( 404 ) 534-8239  
 Reg. No. 29,908  
 (if applicable)

(complete the following if applicable)

Elan Corporation, plc

(Type name of assignee)

Monksland, Athlone,  
 Co. Westmeath, Ireland

(Address of assignee)

Corporate Patent Counsel

(Title of person authorized to sign on behalf of assignee)

Assignment recorded in PTO on  
 12/17/91

Reel 5960

Frame 0060

The statement under 37 CFR 3.73(b)

- ☒ has been filed in the parent application.  
☐ a copy of the statement previously filed in the parent application is attached.

# EXHIBIT B

**PATENT**

Attorney's Docket No. 91.1806,US

**COMBINED DECLARATION AND POWER OF ATTORNEY**

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,  
CONTINUATION OR CIP)

As a below named inventor, I hereby declare that:

**TYPE OF DECLARATION**

This declaration is of the following type: (check one applicable item below )

- ☒ original  
☐ design  
☐ supplemental

NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application do not check next item; check appropriate one of last three items.

- ☐ national stage of PCT

NOTE: If one of the following 3 items apply then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR CIP.

- ☐ divisional  
☐ continuation  
☐ continuation-in-part (CIP)

**INVENTORSHIP IDENTIFICATION**

**WARNING:** If the inventors are each not the inventors of all the claims an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first and sole inventor (if only one name is listed below ) or an original, first and joint inventor (if plural names are listed below ) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**TITLE OF INVENTION**

FORMULATIONS AND THEIR USE IN THE TREATMENT OF NEUROLOGICAL  
DISEASES

**SPECIFICATION IDENTIFICATION**

the specification of which: (complete (a), (b) or (c))

- (a) ☐ is attached hereto.  
(b) ☒ was filed on November 1, 1991 as ☐ Serial No. 07 / 786,400  
or ☐ Express Mail No., as Serial No. not yet known \_\_\_\_\_  
and was amended on \_\_\_\_\_ (if applicable ).

NOTE: Amendments filed after the original papers are deposited with the PTO which contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 CFR 1.67.

- (c) ☐ was described and claimed in PCT International Application No. \_\_\_\_\_ filed on \_\_\_\_\_ and as amended under PCT Article 19 on \_\_\_\_\_ (if any).

**ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR**

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

- ☐ In compliance with this duty there is attached an information disclosure statement. 37 CFR 1.97.

**PRIORITY CLAIM**

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

(complete (d) or (e))

- (d) ☐ no such applications have been filed.  
(e) ☒ such applications have been filed as follows.

NOTE: Where item (c) is entered above and the International Application which designated the U.S. claimed priority check item (e), enter the details below and make the priority claim.

**EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 USC 119
Ireland	3952/90	02 11 90	<input checked="" type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>

**ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

### POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (List name and registration number)

Marla J. Church  
Reg. No. 29,908

(check the following item, if applicable)

- ☐ Attached as part of this declaration and power of attorney is the authorization of the above-named attorney(s) to accept and follow instructions from my representative(s).

#### SEND CORRESPONDENCE TO

Marla J. Church  
Elan Pharmaceutical Research Corporation  
1300 Gould Drive  
Gainesville, Georgia 30504

#### DIRECT TELEPHONE CALLS TO: (Name and telephone number)

Marla J. Church  
(404) 534-8239

### DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

### SIGNATURE(S)

1-00  
Full name of sole or first inventor Joseph Gerard Masterson  
Inventor's signature Joseph Gerard Masterson  
Date 5/Nov/91 Country of Citizenship Ireland  
Residence 33 Rosaville Road, London SW6 7BN, United Kingdom GBX  
Post Office Address Same

2-00  
Full name of second joint inventor, if any Michael Myers  
Inventor's signature Michael Myers  
Date Nov. 4<sup>th</sup> 1991 Country of Citizenship Ireland  
Residence 71, Retreat Park, Athlone, County Westmeath, Ireland IEX  
Post Office Address Same

**CHECK PROPER BOX(ES) FOR ANY OF THE FOLLOWING ADDED PAGE(S) WHICH  
FORM A PART OF THIS DECLARATION**

- ☐ Signature for third and subsequent joint inventors. *Number of pages added* \_\_\_\_\_
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. *Number of pages added* \_\_\_\_\_
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 CFR 1.47. *Number of pages added* \_\_\_\_\_

...

- ☐ Added pages to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (CIP) application.
- ☐ Number of pages added \_\_\_\_\_

...

- ☐ Authorization of attorney(s) to accept and follow instructions from representative

...

***If no further pages form a part of this Declaration then end this Declaration with this page and check the following item***

☒ **This declaration ends with this page**

# EXHIBIT C



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/328,165 10/24/94 MASTERSON

15M1/0120

MARLA J CHURCH  
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J 93 1806C IIS	
EXAMINER	
AZPURU, C	
ART UNIT	PAPER NUMBER

1502  
DATE MAILED:

01/20/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.                 | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.                  |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/> _____  |

Part II SUMMARY OF ACTION

1. ☒ Claims 38-45 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2. ☒ Claims 1-37 have been cancelled.

3. ☐ Claims \_\_\_\_\_ are allowed.

4. ☒ Claims 38-45 are rejected.

5. ☐ Claims \_\_\_\_\_ are objected to.

6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).

12. ☒ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☒ been received ☐ not been received  
☒ been filed in parent application, serial no. 07/786,400, filed on 11/01/91.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION